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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,040	02/17/2004	Klaus Leyendecker	LIP011DIV	9266

32047 7590 05/02/2007
GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER, NH 03101

EXAMINER

ROST, ANDREW J

ART UNIT	PAPER NUMBER
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3753

MAIL DATE	DELIVERY MODE
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05/02/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/780,040

Applicant(s)

LEYENDECKER ET AL.

Examiner

Andrew J. Rost

Art Unit

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2006 and 23 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4, 6, 12 and 14-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4, 6, 12 and 14-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application.
- ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/13/2006 has been entered.
2. Claim 12 has been amended. Claims 1-3, 5, 7-11, 13 and 17 are cancelled. No claims have been newly added. Presently, claims 4, 6, 12 and 14-16 are pending.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 12 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Watanabe et al. (5,875,745).

Watanabe et al. disclose a valve assembly having a plurality of openings arranged in a row with each opening having a flap valve (110), a plurality of shaft portions (connections between flap valves consist for a lower portion of a stem 112, a contact arm 132, a yoke arm 134 and an upper portion of stem 112 of a second flap

valve as shown in fig. 4) with the shaft portions having a cranked configuration (the cranked configuration being the coupling 128 as shown in fig. 5), a plurality of recesses positioned between the flap valves with the placement of the plurality of shaft portions in the plurality of recesses (housing 108 provides recesses between additional connections of housing 108 to member 106 with the coupling 128 and shaft portions located in the recesses), connecting the valve assembly to an engine (housing 108 is connected to housing 106 which is connected to an engine as shown in fig. 2), and a bearing (114) and cap portion (12) securing the flap valves to the housing (108).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 4, 12 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe et al. in view of Hatton (6,135,418).

Watanabe et al. give a broad teaching of what would appear to be a torsionally stiff relationship, but are silent as to the specific press fit connection. Hatton discloses a flap device with multiple control elements connected to a shaft. Hatton discloses numerous methods of connecting the control element to the shaft (see column 5, lines 22-30) including press fitting (see column 5, line 30). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have assembled the control elements of Watanabe et al. to the shaft by press fitting in order to secure the control element to the shaft as taught by Hatton.

8. Claims 6, 12 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe et al. in view of Pearson et al. (5,374,032).

Watanabe et al. give a broad teaching of what appear to be a torsionally stiff relationship, but are silent as to the specific connection being a flattened portion of the shaft bearing against the control element. Pearson et al. disclose a flap device with a control element bearing against a flattened portion of the shaft (see Fig. 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have assembled the control element of Watanabe et al. to the shaft so that a flattened portion of the shaft bears against the control element in order to provide a larger surface to transmit the torque to reduce the possibility of breakage as taught by Pearson et al.

Response to Arguments

9. Applicant's arguments with respect to claims 4, 6, 12 and 14-16 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Laimbock (4,683,855) discloses the connection of a piston to a valve shaft of a throttle valve.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew J. Rost whose telephone number is 571-272-2711. The examiner can normally be reached on 7:00 - 4:30 M-Th and 7:00 - 12:00 Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Keasel can be reached on 571-272-4929. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AJR, AJR 27 APRIL 2007



ERIC KEASEL
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